

Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
Fax: (304) 340-0325

January 14, 2019

Lucrecia Knicely
91 Front St.
Richwood, WV 26261

Buck Naylor
c/o Summers Towing & Repair Inc.
3 Ackerman Road
Morgantown, WV 26508

Megan A. M. Carden
c/o Summers Towing & Repair, Inc.
3 Ackerman Road
Morgantown, WV 26508

RE:

Case No. 18-1278-W-C
Bruce Essig
v.
City of Richwood

Case No. 18-1279-W-C
Lucrecia Knicely
v.
City of Richwood

Case No. 18-1280-W-C
Karen Sue Matthews
v.
City of Richwood

Case No. 18-1281-W-C
Jason Hilton
v.
City of Richwood

Case No. 18-1282-W-C
Buck Naylor
v.
City of Richwood

Case No. 18-1283-S-C
Megan A.M. Carden
v.
City of Richwood

Ladies and Gentlemen:

Pursuant to Rule 4.3.c of the Commission's Rules of Practice and Procedure, we are enclosing a copy of the Staff memorandum in this matter. If you wish to respond to the enclosed Staff memorandum, you may do so in writing within 10 days of this date, unless otherwise directed, submitted to the Executive Secretary's Office at the above address. All other parties of record have agreed to be provided a copy by email.

Your failure to respond in writing to the utility's answer, Staff's recommendations, or other documents may result in a decision in your case based on your original filing and the other documents in the case file, without further hearing or notice.

Sincerely,

Ingrid Ferrell, Director
Executive Secretary Division

IF/s
Enc.: Memo

FINAL JOINT STAFF MEMORANDUM

TO: INGRID FERRELL
Executive Secretary

DATE: JANUARY 14, 2019

FROM: CHRIS HOWARD
Staff Attorney

02:51 PM JAN 14 2019 EXEC SEC DIV

RE: CASE NO. 18-1278-W-C
BRUCE ESSIG V. CITY OF RICHWOOD

CASE NO. 18-1279-W-C
LUCRECIA KNICELY V. CITY OF RICHWOOD

CASE NO. 18-1280-W-C
KAREN SUE MATTHEWS V. CITY OF RICHWOOD

CASE NO. 18-1281-W-C
JASON HILTON V. CITY OF RICHWOOD

CASE NO. 18-1282-W-C
BUCK NAYLOR V. CITY OF RICHWOOD

CASE NO. 18-1283-S-C
MEGAN A.M. CARDEN V. CITY OF RICHWOOD

Staff recommends the Commission issue an Order adopting the recommendations of Engineering Staff, as the final resolution of these Formal Complaints. Any party which objects to these recommendations should file a written objection within 10 days of the date of this memorandum.

On September 17, 2018, Bruce Essig (Complainant) filed a Formal Complaint against the City of Richwood (City) before the West Virginia Public Service Commission (Commission). The Complainant states that he has experienced several days that he has to boil water. The City's water tank on Orchard Hills is leaking and the City will not fix it. The Complainant believes he should not be billed for days that he does not have water.

On October 16, 2018, Staff issued an Initial Joint Staff Memorandum (IJSMD). Staff stated the City had failed to file an Answer. Staff requested additional information

from the City as part of its investigation and issued its first set of interrogatories in conjunction with the memorandum.

On October 29, 2018, the City filed its Answer to the Formal Complaint. The City states its tank on Orchard Avenue is leaking and the City is considering corrective action. The City recommends the Commission issue an Order dismissing the Formal Complaints.

On October 31, 2018, the Commission issued an Order directing the City to file its Answer to the Formal Complaints.

On November 19, 2018, Staff filed a Motion to Compel the City to respond to the Staff's first set of interrogatories.

On November 20, 2018, the Commission issued an Order consolidating Commission Case Nos. 18-1278-W-C, 18-1279-W-C, 18-1280-W-C, 18-1281-W-C, 18-12-82-W-C, and 18-1283-S-C.

On November 30, 2019, the City filed its responses to the Staff's first set of interrogatories and indicated it would be filing a supplemental answer in the near future.

On December 13, 2018, Staff issued a Further Initial Joint Staff Memorandum. Staff recommended the Commission grant its Motion to Compel and direct the City of Richwood to file its response addressing all missing responses to questions 4, 7, 9, 11, 14, 20, 21, 22, 24, 27, 29, 30, 32, 35, 38, 40, 43, 44, & 47, as well as provide any missing exhibits. Staff should be able to review the responses and make a final recommendation within this time period. Staff would file its final recommendation on or before January 12, 2019.

On December 17, 2018, the Commission issued an Order directing the City to file all the requested information by Staff in its first set of interrogatories, and ordered Staff to file its Final Memorandum on or before January 12, 2019.

On December 21, 2018, the City filed its supplemental responses to the Staff's first set of interrogatories.

On January 4, 2019, the City filed a Motion to Dismiss Commission Case Nos. 18-1279-W-C, 18-1280-W-C and 18-1282-W-C.

Final Recommendation of the Commission's Engineering Division Staff

On January 14, 2019, Sylvie Steranka, Technical Analyst for the Commission's Engineering Division (Engineering Staff) issued a Final Memorandum. Engineering Staff states it has attempted to contact all Complainants. None of the Complainants have returned Staff's phone calls or emails. Staff also contacted Kevin Summers, Owner of Summers Towing & Repair, Inc, located in Morgantown, WV. Mr. Summers's company was listed in association with Cases 18-1283-S-C and 18-1282-W-C. Mr. Summers mentioned that he did not know anyone living in Richwood and that his company's name, associated with these two cases, was in error. Based on the foregoing, Engineering Staff recommends the following:

1. The City recently went through an important change of personnel. During Staff's visit, Staff recommended that the City contact the Commission's Water and Wastewater (WW) Division regarding utility office personnel training and available seminars. The WW Division has been contacted and training and informal assistance will be provided in January 2019, mainly to cover the PSC water rules and basic accounting procedures. In addition to this training session, Staff recommends that the City be directed to send at least one employee to each of the following seminars in 2019:
 - a. Managing employees to avoid legal conflict seminar
 - b. Utility office works seminar
 - c. Safety seminar
 - d. Municipals/Association seminar
 - e. Basic accounting seminar

Staff recommends that the City file a letter within two months, showing when and who will attend the seminars listed above.

2. The intake structure was damaged during the 2016 flood. Staff recommends that this structure be repaired as soon as FEMA funding becomes available.
3. The Lynn Street tank was found to be leaking and in need of improvements and fencing around the tank site. This work will

be covered with the Work included in Case 18-1499-W-CN, under Contract No. 5.

4. Staff found that a proper procedure exists to issue BWN. Lately, a high number of mainline breaks have been due to the replacement of adjacent drainage pipes.
5. Staff found that the treatment plant is in need of maintenance, but proper treatment and testing procedures are in place to provide safe water to the customers. The quality of water is controlled daily and daily operators logs are filled out showing the levels of chlorine, pH, alkalinity, hardness, iron level, and turbidity of raw and finished products. The fluoride level is also checked daily. In addition to these reports, the plant fills out monthly operators report (MOR) that are submitted to the Health Department in Charleston. Staff did not find evidence that would show that the City is not providing safe water to its customers. Improvements to the treatment plant are included in the Work included in Case 18-1499-W-CN, under Contract No. 4.
6. Water and/or sewer rate increases are processed through a system that includes ordinances, publications, possibility of customers' protests, and Municipal Appeal Cases that are reviewed at the Commission. The last sewer rate increase has been addressed with Case 17-0888-S-MA. The last water rate increase was reviewed under Case ORDW Richwood 18A.

Final Recommendation of the Commission's Legal Division Staff

Legal Staff has reviewed the documents, including the pleadings and the Final Memorandum of Engineering Staff. Legal Staff agrees with the findings and recommendations of Engineering Staff. Legal Staff determines Engineering Staff's recommendations are reasonable and should be adopted as the final resolution to this matter. Legal Staff recommends the City contact the Commission's Water and Wastewater (WW) Division regarding utility office personnel training and available seminars. The WW Division has been contacted and training and informal assistance will be provided in January 2019, mainly to cover the PSC water rules and basic accounting procedures and other trainings offered by the WW Division. Improvements to the treatment plant and other parts of the City's system are included in the Work included in

Case No. 18-1278-W-C, 18-1279-W-C,
18-1280-W-C, 18-1281-W-C, 18-1282-W-C
and 18-1283-W-C
January 14, 2019
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Case 18-1499-W-CN, under Contract Nos. 4 and 5. Finally, issues raised in the Formal Complaints about rates charged by the City are not part of this proceeding and have been processed under Case 17-0888-S-MA and Case ORDW Richwood 18A. Legal Staff recommends the Commission issue an Order adopting the recommendations of Engineering Staff, as the final resolution of these Formal Complaints. Any party which objects to these recommendations should file a written objection within 10 days of the date of this memorandum.

CLH/bg
Attachment

CWS 

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PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
FINAL INTERNAL MEMORANDUM

02:51 PM JAN 14 2019 EXEC SEC DIV

DATE: January 14, 2019

TO: Chris Howard, Staff Attorney
Legal Division

FROM: Sylvie Steranka, Technical Analyst SDS
Engineering Division

Re: **Case No. 18-1278-W-C, No. 18-1279-W-C,
Case No. 18-1280-W-C, Case No. 18-1281-W-C,
Case No. 18-1282-W-C, and Case No. 18-1283-W-C**
Bruce Essig, Lucrecia Knicely, Karen Sue Matthews, Jason Hilton,
Buck Naylor, and Megan A. M. Carden (respectively)
v.
City of Richwood
Final Memo

Case 18-1278-W-C

BACKGROUND:

On September 17, 2018, Bruce Essig (Complainant), residing at 26 east Main Street in Richwood, WV filed a formal Complaint, against the City of Richwood (Richwood, City, Utility). The Complainant alleged that he receives too many boil water notices (BWN), and that the tank on Orchard Heights is leaking. The Complainant believes that the tank should be repaired and that he should not be charged for water service when the water is not safe to drink. In addition Mr. Essig opposed the sewer rate hike.

INTERROGATORIES:

On October 18, 2018, Staff issued its initial memorandum, and First Set of Interrogatories requesting the following information from the Utility:

1. Provide an Answer to this Complaint
2. Provide the last three sanitary surveys from the Department of Health and detailed corrective actions taken, if any.
3. Provide all boil water notices (BWN) affecting the Complainant's water quality in 2017 and 2018. For each

BWN, describe reason for the notice and actions taken to restore proper water quality.

In its initial memorandum, Staff stated that the sewer rate increase has been addressed with Case 17-0888-S-MA, where the Commission reviewed the protest petitions signed by 294 customers. After having investigated the facts, the Commission issued an Order to adopt the rates proposed by Staff. The Order became final on October 23, 2017.

Staff also recommended that the Complainant return the verification form as described in the Commission Order dated September 17, 2018.

On October 29, 2018, the Utility provided its Answer and admitted having issued many boil water advisories (BWA) lately, but denied having done so because of “inept water cleaning”. The City also admitted that the Orchard Avenue Tank is leaking. This situation is being monitored while corrective actions are planned. An Objection was raised concerning the complaint about the sewer rate increase since this would have to be done through a proper petition associated with a municipal appeal case. The City also stated that it should not have to adjust its tariff during a BWA. The City prayed that this Case be consolidated with similar cases and that the Complaint be dismissed.

On October 31, 2018, this Case was referred to the division of Administrative Law Judges (ALJ) for a decision to be rendered by April 15, 2019.

On November 19, 2018, Staff issued a Motion to compel the City to answer Staff’s First Set of Interrogatories.

On November 20, 2018, the Division of Administrative Law Judges (ALJ) issued a Procedural Order consolidating all the cases listed on the first page of this document, and granted Staff’s Motion to Compel the City to provide a response to Staff’s First Set of Interrogatories within 10 days.

On November 30, 2018, Richwood provided a Response to the set of interrogatories. A response to Question 1 was provided on October 29, 2018. Responses to Questions 2 and 3 were provided and are further discussed in the section of this memo titled “Consolidated Cases, responses to Interrogatories”.

Case No. 18-1279-W-C

BACKGROUND:

On September 17, 2018, Lucrecia Knicely (Complainant), residing at 91 Front Street in Richwood, WV filed a formal Complaint, against the City of Richwood (Richwood, City, Utility). The Complainant verified this Complaint on September 26, 2018. The Complainant alleged that her public water is not safe to drink and that she has to buy bottled water. Ms. Knicely questions the City's water tariff, especially since the work to justify the rate increases (i.e. replacement of the distribution system) is not done. As a remedy, Ms. Knicely would like the situation to be fixed and that the City designates an accountable person.

INTERROGATORIES:

On October 18, 2018, Staff issued its initial memorandum, and First Set of Interrogatories requesting the following information from the Utility (Q# denotes the numbering system used by the Utility while responding to the Interrogatories after consolidation of the cases):

1. (Q4) Provide an Answer to this Complaint.
2. (Q5) Provide the last three sanitary surveys from the Department of Health and detailed corrective actions taken, if any.
3. (Q6) Provide all boil water notices (BWN) affecting the Complainant's water quality in 2017 and 2018. For each BWN, describe reason for the notice and actions taken to restore proper water quality.
4. (Q7) Provide age and condition of the entire water distribution system serving this customer.
5. (Q8) Are plans made to replace some of the water distribution system? If yes, indicate associated CN case number(s) and submit timeline showing when the work will be done.
6. (Q9) Provide names and title of all persons accountable for the quality of water service in the City.

On October 29, 2018, the Utility provided its Answer and admitted having issued many boil water advisories (BWA) lately, but denied having done so because of "inept water cleaning". The City prayed that this Case be consolidated with similar cases and that the complaint should be dismissed.

On October 31, 2018, this Case was referred to the division of Administrative Law Judges (ALJ) for a decision to be rendered by April 15, 2019.

On November 19, 2018, Staff issued a Motion to compel the City to answer Staff's First Set of Interrogatories.

On November 20, 2018, the Division of Administrative Law Judges (ALJ) issued a Procedural Order consolidating all the cases listed on the first page of this document, and granted Staff's Motion to Compel the City to provide a response to Staff's First Set of Interrogatories within 10 days.

On November 30, 2018, Richwood provided a Response to the set of interrogatories.

A response to Question 1 was provided on October 29, 2018.

Responses to Questions 2 and 3 were provided and are further discussed in the section of this memo titled "Consolidated Cases, responses to Interrogatories".

Questions 4 and 6 are to be addressed by a supplemental response.

Question 5 was answered. Plans are made to replace some of the water distribution system. The work is to be done in association with Case no 18-1499-W-CN. The work associated with this certificated case is expected to be completed by September 18, 2020. A project schedule was provided under Attachment 8 along with excerpts from a preliminary engineering report dated October 19, 2018, which further details work to be done at the Orchard Heights Booster Station, Lynn Street Water Storage Tank, Oakford Ave Water Storage Tank, Orchard Heights Water Storage Tank, Riverside Water Storage Tank, and Fenwick Storage Tank.

Case No. 18-1280-W-C

BACKGROUND:

On September 17, 2018, Karen Sue Matthews (Complainant), residing at 90 Front Street in Richwood, WV filed an unverified formal Complaint, against the City of Richwood (Richwood, City, Utility). The Complainant alleged the following:

1. Her public water is not safe to drink
2. The City is charging too much for water that is unsanitary.
The City was first awarded a 20% emergency rate increase, then a 29% rate increase; Ms Matthews believes that the City did not remove the 20% emergency rate increase, as required.

3. The persons in charge of the daily operations should be replaced with competent employees.
4. Her water meter was not removed for the winter months, as requested. As a result, her house flooded and was damaged. The Complainant has been unable to obtain a copy of the insurance report.
5. The existing distribution system has not been repaired. The Federal government provided funding to repair the pipes; therefore, the water customers should not be subject to a rate increase to take care of the situation.
6. The sewer rate increase being requested by the City is ludicrous since it is due to improper operation.

The Complainant seeks restoration of her home to the condition it was prior to the water leaks, getting a copy of the insurance report concerning flooding of her home, replacement of incompetent personnel (for the water and sewer departments), removal of the 20% emergency water rate increase, and proper justification of the sewer rate increase.

INTERROGATORIES:

On October 18, 2018, Staff issued its initial memorandum, and First Set of Interrogatories requesting the following information from the Utility:

1. (Q10)Provide an Answer to this Complaint.
2. (Q11)Provide two- year billing history.
3. (Q12)Provide the last three sanitary surveys from the Department of Health and detailed corrective actions taken, if any.
4. (Q13)Provide all boil water notices (BWN) affecting the Complainant's water quality in 2017 and 2018. For each BWN, describe reason for the notice and actions taken to restore proper water quality.
5. (Q14)Provide age and condition of the entire water distribution system serving this customer.
6. (Q15)Are plans made to replace some of the water distribution system? If yes, indicate associated CN case number(s) and submit timeline showing when the work will be done.
7. (Q16)Provide names and titles of all persons accountable for the quality of water service in the City.

8. (Q17) Was federal funding available to replace the existing water distribution system? (Submit details of amount obtained and associated use of money).
9. (Q18) When was emergency 20% water increase done? Provide associated Commission Case number.
10. (Q19) When was 29% water increase done? Provide associated Commission Case number.
11. (Q20) When did the Complainant request termination of her water service prior to the winter months? Was the water meter removed from the pit? If yes, when? Was the water shut off? If yes, when?
12. (Q21) Did the City or representatives from its insurance inspect the home of the Complainant after the alleged flooding?
13. (Q22) Provide insurance report regarding the alleged flooding of the Complainant's home.

Staff also requested the following from the Complainant:

1. Provide date the flooding occurred.
2. What caused the flooding?
3. When and how did you request that your water be shut-off for the winter months?
4. Do you have a shut-off valve located after the meter pit?
5. Provide documentation of the flooding (i.e. pictures, videos).
6. Was your water usage excessive during the flooding? If yes, did you request a leak adjustment?

Staff noted that the sewer rate increase has been addressed with Case 17-0888-S-MA, where the Commission reviewed the protest petitions signed by 294 customers. After having investigated the facts, the Commission issued an Order to adopt the rates proposed by Staff. The Order became final on October 23, 2017.

Staff also recommended that the Complainant return the verification form as described in the Commission Order dated September 17, 2018.

On October 29, 2018, the Utility provided its Answer and admitted having issued many boil water advisories (BWA) lately, but denied having done so because of "inept water cleaning". The City also stated that it should not have to adjust its tariff during a BWA. The City prayed that this Case be consolidated with similar cases and that the complaint be dismissed.

On October 31, 2018, this Case was referred to the division of Administrative Law Judges (ALJ) for a decision to be rendered by April 15, 2019.

On November 19, 2018, Staff issued a Motion to compel the City to answer Staff's First Set of Interrogatories.

On November 20, 2018, the Division of Administrative Law Judges (ALJ) issued a Procedural Order consolidating all the cases listed on the first page of this document, and granted Staff's Motion to Compel the City to provide a response to Staff's First Set of Interrogatories within 10 days.

On November 30, 2018, Richwood provided a Response to the set of interrogatories. A response to Question 1 was provided on October 29, 2018.

Responses to Questions 3 and 4 were provided and are further discussed in the section of this memo titled "Consolidated Cases, responses to Interrogatories".

Questions 2, 5, 7, 11, 12, and 13 are to be addressed by a supplemental response.

Question 6 was answered as follows: Plans are made to replace some of the water distribution system. The work is to be done in association with Case no 18-1499-W-CN. The work associated with this certificated case is expected to be completed by September 18, 2020. A project schedule was provided under Attachment 8 along with excerpts from a preliminary engineering report dated October 19, 2018, which further details work to be done at the Orchard Heights Booster Station, Lynn Street Water Storage Tank, Oakford Ave Water Storage Tank, Orchard Heights Water Storage Tank, Riverside Water Storage Tank, and Fenwick Storage Tank.

Question 8 was answered as follows: No federal funding was available to replace the existing water distribution system. The certificate project described above as an answer to Question 6 will replace only a small section of the distribution system, needed to extend service to areas of Little Laurel Run and Hinkle Mountain.

Question 9 was answered as follows: The 20% emergency water rate increase was approved by a Recommended Decision in Case 17-0887-W-MA and was implemented shortly after July 20, 2017. A new city ordinance, adopted on October 18, 2018 will supersede the 2017 municipal appeal case. The new water rates are to go in effect by December 4, 2018.

Question 10 was answered as follows: The 29% emergency water increase was to go into effect on November 13, 2019. However, the city ordinance, adopted on October 18, 2018 will supersede the 2017 municipal appeal case. The new water rates are to go in effect by December 4, 2018.

Case No. 18-1281-W-C

BACKGROUND:

On September 17, 2018, Jason Hilton (Complainant), residing at 2333 Little Beaver Road in Calvin, WV filed an unverified formal Complaint, against the City of Richwood (Richwood, City, Utility). The Complainant alleged the following:

1. Water service is poor
2. Water leaks are numerous
3. Water meters are always misread and are not tested
4. The water is not potable and unsafe
5. Meters containing lead are not replaced
6. A sewer rate increase should not be granted

The Complainant seeks for the City to provide bottled water to all residents at its cost, inspection and testing of all equipment associated with the water department, verification that equipment is properly used, replacement of water meter containing lead.

INTERROGATORIES:

On October 17, 2018, Staff issued its initial memorandum, and First Set of Interrogatories requesting the following information from the Utility:

1. (Q23)Provide an Answer to this Complaint.
2. (Q24)Provide two- year billing history.
3. (Q25)Provide the last three sanitary surveys from the Department of Health and detailed corrective actions taken, if any.
4. (Q26)Provide all boil water notices (BWN) affecting the Complainant's water quality in 2017 and 2018. For each BWN, describe reason for the notice and actions taken to restore proper water quality.
5. (Q27)Provide age and condition of the entire water distribution system serving this customer.
6. (Q28)Are plans made to replace some of the water distribution system? If yes, indicate associated CN case number(s) and submit timeline showing when the work will be done.

7. (Q29) Provide list, description, and use of all equipment used by the water department.
8. (Q30) Provide list of all meters owned by the City, showing manufacturing date, and date of last meter test.

In its initial memorandum, Staff stated that the sewer rate increase has been addressed with Case 17-0888-S-MA, where the Commission reviewed the protest petitions signed by 294 customers. After having investigated the facts, the Commission issued an Order to adopt the rates proposed by Staff. The Order became final on October 23, 2017.

Staff also recommended that the Complainant return the verification form as described in the Commission Order dated September 17, 2018.

On October 29, 2018, the Utility provided its Answer and admitted having issued many boil water advisories (BWA) lately, but denied having done so because of “inept water cleaning”. The City also stated that it should not have to adjust its tariff during a BWA. The City prayed that this Case be consolidated with similar cases and that the complaint should be dismissed.

On October 31, 2018, this Case was referred to the division of Administrative Law Judges (ALJ) for a decision to be rendered by April 15, 2019.

On November 19, 2018, Staff issued a Motion to compel the City to answer Staff’s First Set of Interrogatories.

On November 20, 2018, the Division of Administrative Law Judges (ALJ) issued a Procedural Order consolidating all the cases listed on the first page of this document, and granted Staff’s Motion to Compel the City to provide a response to Staff’s First Set of Interrogatories within 10 days.

On November 30, 2018, Richwood provided a Response to the set of interrogatories. A response to Question 1 was provided on October 29, 2018.

Responses to Questions 3 and 4 were provided and are further discussed in the section of this memo titled “Consolidated Cases, responses to Interrogatories”.

Questions 2, 5, 7, and 8 are to be addressed by a supplemental response.

Question 6 was answered as follows: Plans are made to replace some of the water distribution system. The work is to be done in association with Case no 18-1499-W-CN. The work associated with this certificated case is expected to be completed by September 18, 2020. A project schedule was

provided under Attachment 8 along with excerpts from a preliminary engineering report dated October 19, 2018, which further details work to be done at the Orchard Heights Booster Station, Lynn Street Water Storage Tank, Oakford Ave Water Storage Tank, Orchard Heights Water Storage Tank, Riverside Water Storage Tank, and Fenwick Storage Tank.

Case No. 18-1282-W-C

BACKGROUND:

On September 17, 2018, Buck Naylor (Complainant), residing in Nicholas County, WV filed an unverified formal Complaint, against the City of Richwood (Richwood, City, Utility). The Complainant alleged that water is unfit to drink and that boil water notices are numerous and lasts too long. The Complainant Questions the reasons for past increases in water rates, considering the quality of the service received. The Complainant also mentioned a sewer rate increase. As a remedy, the Complainant seeks “new ownership of Richwood Water”.

INTERROGATORIES:

On October 17, 2018, Staff issued its initial memorandum, and First Set of Interrogatories requesting the following information from the Utility:

1. (Q31)Provide an Answer to this Complaint.
2. (Q32)Provide two- year billing history.
3. (Q33)Provide the last three sanitary surveys from the Department of Health and detailed corrective actions taken, if any.
4. (Q34)Provide all boil water notices (BWN) affecting the Complainant’s water quality in 2017 and 2018. For each BWN, describe reason for the notice and actions taken to restore proper water quality.
5. (Q35)Provide age and condition of the entire water distribution system serving this customer.
6. (Q36)Are plans made to replace some of the water distribution system? If yes, indicate associated CN case number(s) and submit timeline showing when the work will be done.
7. (Q37)Provide justification for last water rate increase and associated Commission Case number.

8. (Q38) Provide list of water department personnel, with titles, years of experience, and certification (if any).

In its initial memorandum, Staff stated that the sewer rate increase has been addressed with Case 17-0888-S-MA, where the Commission reviewed the protest petitions signed by 294 customers. After having investigated the facts, the Commission issued an Order to adopt the rates proposed by Staff. The Order became final on October 23, 2017.

Staff also recommended that the Complainant return the verification form as described in the Commission Order dated September 17, 2018 and provide Staff with his physical address and phone number.

On October 29, 2018, the Utility provided its Answer and admitted having issued many boil water advisories (BWA) lately, but denied having done so because of “inept water cleaning”. An Objection was raised concerning the complaint about the sewer rate increase since this would have to be done through a proper petition associated with a municipal appeal case. The City also stated that it should not have to adjust its tariff during a BWA. The City prayed that this Case be consolidated with similar cases and that the complaint should be dismissed.

On October 31, 2018, this Case was referred to the division of Administrative Law Judges (ALJ) for a decision to be rendered by April 15, 2019.

On November 19, 2018, Staff issued a Motion to compel the City to answer Staff’s First Set of Interrogatories.

On November 20, 2018, the Division of Administrative Law Judges (ALJ) issued a Procedural Order consolidating all the cases listed on the first page of this document, and granted Staff’s Motion to Compel the City to provide a response to Staff’s First Set of Interrogatories within 10 days.

On November 30, 2018, Richwood provided a Response to the set of interrogatories. A response to Question 1 was provided on October 29, 2018.

Responses to Questions 3 and 4 were provided and are further discussed in the section of this memo titled “Consolidated Cases, responses to Interrogatories”.

Questions 2, 5, and 8, are to be addressed by a supplemental response.

Question 6 was answered as follows: Plans are made to replace some of the water distribution system. The work is to be done in association with

Case no 18-1499-W-CN. The work associated with this certificated case is expected to be completed by September 18, 2020. A project schedule was provided under Attachment 8 along with excerpts from a preliminary engineering report dated October 19, 2018, which further details work to be done at the Orchard Heights Booster Station, Lynn Street Water Storage Tank, Oakford Ave Water Storage Tank, Orchard Heights Water Storage Tank, Riverside Water Storage Tank, and Fenwick Storage Tank.

Question 7 was answered as follows: The water rate increase was approved by a Recommended Decision in Case 17-0887-W-MA and was implemented shortly after July 20, 2017. A new city ordinance, adopted on October 18, 2018 will supersede the 2017 municipal appeal case. The new water rates are to go in effect by December 4, 2018. Justification for the rate increase is provided in Case No.: Richwood ORDW 18A and Rule 42 Exhibit filed with pending Certificate Case No.: 18-1499-W-CN.

Case No. 18-1283-W-C

BACKGROUND:

On September 17, 2018, Megan A. M. Carden (Complainant), residing in Nicholas County, WV filed an unverified formal Complaint, against the City of Richwood (Richwood, City, Utility). The Complainant alleged the following:

1. Leakage of sewer and storm drains
2. Boiling water notices are sent late
3. The storage tank is leaking
4. Imbalance of chemicals in water
5. The sewer rate is increasing

As a remedy, the Complainant seeks repairs of all sewage and storm drains in Richwood.

INTERROGATORIES:

On October 16, 2018, Staff issued its initial memorandum, and First Set of Interrogatories requesting the following information from the Utility:

1. (Q39)Provide an Answer to this Complaint.
2. (Q40)Provide two- year billing history.
3. (Q41)Provide the last three sanitary surveys from the Department of Health and detailed corrective actions taken, if any.

4. (Q42) Provide all boil water notices (BWN) affecting the Complainant's water quality in 2017 and 2018. For each BWN, describe reason for the notice and actions taken to restore proper water quality.
5. (Q43) For all BWN's, provide dates they were issued and dates they were removed.
6. (Q44) How are customers notified about BWN?
7. (Q45) Provide names of all storage tanks and conditions, especially regarding leaks or overflows.
8. (Q46) Does the City have plans to upgrade its sewer collection system? If yes, provide details.
9. (Q47) Does the City have plans to upgrade its storm drain system? If yes, provide details.
10. (Q48) Is the storm drain system combined with the sewer collection system?
11. (Q49) How much (I&I) inflow and infiltration is in the collection system?

Staff recommended that the sewer utility serving the Complainant be joined to this Complaint, and that this Case be appropriately re-numbered, if needed.

In its initial memorandum, Staff stated that the sewer rate increase has been addressed with Case 17-0888-S-MA, where the Commission reviewed the protest petitions signed by 294 customers. After having investigated the facts, the Commission issued an Order to adopt the rates proposed by Staff. The Order became final on October 23, 2017.

Staff also recommended that the Complainant return the verification form as described in the Commission Order dated September 17, 2018 and provide her physical address and phone number.

On October 29, 2018, the Utility provided its Answer and admitted having issued many boil water advisories (BWA) lately, but denied having done so because of "inept water cleaning". The City also admitted that the Orchard Avenue Tank is leaking. This situation is being monitored while corrective actions are planned. An Objection was raised concerning the complaint about the sewer rate increase since this would have to be done through a proper petition associated with a municipal appeal case. The City also stated that it should not have to adjust its tariff during a BWA. The City prayed that this Case be consolidated with similar cases and that the complaint should be dismissed.

On October 31, 2018, this Case was referred to the division of Administrative Law Judges (ALJ) for a decision to be rendered by April 15, 2019.

On November 19, 2018, Staff issued a Motion to compel the City to answer Staff's First Set of Interrogatories.

On November 20, 2018, the Division of Administrative Law Judges (ALJ) issued a Procedural Order consolidating all the cases listed on the first page of this document, and granted Staff's Motion to Compel the City to provide a response to Staff's First Set of Interrogatories within 10 days.

On November 30, 2018, Richwood provided a Response to the set of interrogatories. A response to Question 1 was provided on October 29, 2018.

Responses to Questions 3 and 4 were provided and are further discussed in the section of this memo titled "Consolidated Cases, responses to Interrogatories".

Questions 2, 5, 6, and 9 are to be addressed by a supplemental response.

Question 7 was answered as follows: Plans are made to replace some of the water distribution system. The work is to be done in association with Case no 18-1499-W-CN. The work associated with this certificated case is expected to be completed by September 18, 2020. A project schedule was provided under Attachment 8 along with excerpts from a preliminary engineering report dated October 19, 2018, which further details work to be done at the Orchard Heights Booster Station, Lynn Street Water Storage Tank, Oakford Ave Water Storage Tank, Orchard Heights Water Storage Tank, Riverside Water Storage Tank, and Fenwick Storage Tank.

Question 8 was answered as follows: The City has plans to upgrade its sewer collection system in 2020. No details were given regarding the work that will be included

Question 10 was answered as follows: The storm drain system is combined with the sewer collection system.

Question 11 was answered as follows: Per the City's Annual Report for the fiscal year ending June 30, 2017, 90.76% of the flow treated at the plant was due to inflow and infiltration.

CONSOLIDATED CASES:

RESPONSES TO INTERROGATORIES:

Sanitary Surveys:

The last three Sanitary Surveys done by the WV Department of Health and Human Resources, Bureau of Public Health (Health Department) were provided. In 2010, 2013, and/or 2016, the following significant deficiencies were identified (year of deficiency identified in parenthesis):

1. Flash mixer unit needs to be replaced as soon as possible (2010)
2. Sand of filter media was worn and losing its effective size (2010, 2013)
3. Water losses exceeding 60% (2013, 2016)
4. Stream crossing in Little Laurel and Weber areas damaged by 2016 flood needs to be repaired (2016)
5. Intake structure damaged during 2016 flood needs to be repaired (2016)
6. Lynn Street Tank and Oakford Avenue Tanks in need of maintenance (2016)

The following answers were provided by Richwood to the Department of Health:

1. The flash mixer unit is working, but has considerable wear (2010)
2. The filter media is scheduled to be replaced as part of a pending certificated project (2010)
3. Richwood needs to test its master meter for accuracy and needs to work on its water losses, a leak detection plan has not been followed, a new meter to measure the production of water is to be installed as part of a certificated project (2013, 2016)
4. The stream crossings in Little Laurel and Weber City areas have been repaired with permanent lines (2016)
5. The intake structure is planned to be properly repaired once FEMA and the City decide on a permanent solution (2016)
6. Lynn Street Tank problems will be addressed with pending certificated case. No plans made to address the deficiencies of the Oakford Ave Tank (2016)

On December 13, 2018, Staff filed a Further Initial Joint Staff Memorandum recommending the Commission to compel the City to file all the responses to Staff First Set of Interrogatories filed in each case on October 18, 2018. Staff also requested additional time to file its final memorandum to have time to review the supplemental responses.

On December 17, 2018, the division of Administrative Law Judges (ALJ) filed a Procedural Order directing the City to immediately file full and complete responses to questions 4, 7, 9, 11, 14, 20, 21, 22, 24, 27, 29, 30, 32, 35, 38, 40, 43, 44, and 47 as well as all missing exhibits. Staff was also directed to file its final recommendation by January 12, 2019.

On December 17, 2018, the City filed its First Supplemental Response for Question 44, regarding boil water notices.

Boil Water Notices (BWN):

The City indicated that it follows the following procedure regarding BWN:

1. A boil water advisory form is sent to the Health Department.
2. The Health Department informs all radio and TV stations.
3. The Nicolas County 911 center is notified, the center informs the customers registered with the system by text message or phone call.
4. The City places the BWN on its Facebook page, which has over 7,000 followers.

SITE VISIT:

On December 20, 2018, Staff performed a site visit and met with Amy Given (Director of water and sewer system) and Jack Tinney (Supervisor). Both employees mentioned being recently hired by the City and in need of training. Staff also briefly met with the Mayor, Christina Drennen. Mayor Drennen is in charge of the Certificate Case (18-1499-W-CN, CN) that was filed recently at the Commission to upgrade the water distribution system and water treatment plant. Amy Given and Jack Tinney mentioned that they do not know what will be done with the planned upgrades. Staff went over the BWN procedure. In addition to the answer provided above, the City also indicated that it posts the notices on the front doors of City Hall and that it calls businesses and schools individually. Most BWN are due to line breaks done by contractors working on the storm water system. The distribution system includes 5 water

tanks. The Orchard Heights tank is a 10,000 gallon tank, which serves 10 customers, and is not leaking. The Lynn Street tank is a 500,000-gallon tank. Staff drove to the tank, which was leaking at its base at a rate of about 4,000 gal/day (per Mr. Tinney's information). Mr. Essig is served from the Lynn Street tank. Staff also discussed the major deficiencies listed in the last sanitary surveys and obtained the following information: The Little Laurel stream crossing was repaired, the condition of the Weber area crossing was unknown. A leak detection company was consulted to address the level of unaccounted for water losses. The City is planning to reduce its water losses by installing new water meters, replacing some existing distribution main, repairing the leak at the Lynn Street tank, and having the meter at the plant tested and calibrated more often. The master meter at the plant was last calibrated in 2013. This master meter is to be replaced with the CN project. The intake structure was damaged during the 2016 flood. This structure is to be repaired with funds from FEMA. The leak found near the Orchard Heights booster station was repaired. The City is planning to install fences around its tank sites. The scales measuring the amount of chlorine gas remaining in the cylinders were replaced. Staff also toured the water treatment plant (WTP), which includes a flash mixer, flocculation and settling basins, tube settlers and filters, pre-chlorinator, and clear wells. The WTP shows many signs of aging, which will be addressed in the CN. The quality of water is controlled daily and daily operators logs are filled out showing the levels of chlorine, pH, alkalinity, hardness, iron level, and turbidity of raw and finished products. The fluoride level is also checked daily. In addition to these reports, the plant fills out monthly operators report (MOR) that are submitted to the Health Department in Charleston. The City believes that it is supplying adequate and safe water to its customers.

On January 4, 2019, the City filed a Motion to dismiss the following Complainants from this consolidated case:

1. Bruce Essig (18-1278-W-C) since he is not a customer of record. This Complainant owns rental properties in Richwood, the tenants are the water customers. The tenants may file a complaint, if appropriate.
2. Jason Hilton (18-1281-W-C) since he is not a customer of record. This Complainant owns rental properties in Richwood, the tenants are the water customers. The tenants may file a complaint, if appropriate.
3. Megan Carden (18-1283-S-C) is not a customer of record.

On January 4, 2019, the City filed its Second Supplemental Responses to Staff's First Set of Interrogatories, addressing responses to Questions 4, 9, 11, 22, 24, 27, 32, 35, 38, and 40 as follows:

1. (Q4) the distribution system is 71 years old. Its condition varies.
2. (Q9) Names of persons accountable for the water quality were provided. Staff notes that the City recently went through a high personnel turnover; Out of 8 persons listed; only 2 of them were employed before June 2017.
3. (Q11) A two year billing history was provided to the Staff Attorney on January 3, 2019. The history shows that Ms. Matthews usually uses less water in any given month than the amount corresponding to minimum billing. No information was provided between August 22, 2016 and June 30, 2018, Staff cannot tell whether the water meter was removed during this period or if the information is missing.
4. (Q22) The City does not have an insurance report regarding the alleged flooding of the Complainant's home.
5. (Q24) The Complainant has not been a customer since 2013; therefore a two year billing history is not available.
6. (Q27) The Complainant is not served by the City's water distribution system.
7. (Q32) A two year billing history was provided to the Staff Attorney on January 3, 2019.
8. (Q35) Mr. Naylor is served with an 88 year old distribution system of varying condition.
9. (Q38) Names of persons accountable for the water quality were provided. See response to (Q9) above.
10. (Q40) A two year billing history was provided to the Staff Attorney on January 3, 2019.

As of January 9, 2019, responses to Questions 7, 14, 20, 21, 29, 30, 43, and 47 have not been provided.

Staff has attempted to contact all Complainants. None of the Complainants have returned Staff's phone calls or emails. Staff also contacted Kevin Summers, Owner of Summers Towing & Repair, Inc, located in Morgantown, WV. Mr. Summers's company was listed in association with Cases 18-1283-S-C and 18-1282-W-C. Mr. Summers mentioned that he did not know anyone living in Richwood and that his company's name, associated with these two cases, was in error.

RECOMMENDATIONS:

After having reviewed all information filed, Staff opines and/or recommends the following:

1. The City recently went through an important change of personnel. During the Staff's visit, Staff recommended that the City contact the Commission's Water and Wastewater (WW) Division regarding utility office personnel training and available seminars. The WW Division has been contacted and training and informal assistance will be provided in January 2019, mainly to cover the PSC water rules and basic accounting procedures. In addition to this training session, Staff recommends that the City be directed to send at least one employee to each of the following seminars in 2019:
 - a. Managing employees to avoid legal conflict seminar
 - b. Utility office works seminar
 - c. Safety seminar
 - d. Municipals/Association seminar
 - e. Basic accounting seminar

Staff recommends that the City file a letter within two months, showing when and who will attend the seminars listed above.

2. The intake structure was damaged during the 2016 flood. Staff recommends that this structure be repaired as soon as FEMA funding becomes available.
3. The Lynn Street tank was found to be leaking and in need of improvements and fencing around the tank site. This work will be covered with the Work included in Case 18-1499-W-CN, under Contract No. 5.
4. Staff found that a proper procedure exists to issue BWN. Lately, a high number of mainline breaks have been due to the replacement of adjacent drainage pipes.
5. Staff found that the treatment plant is in need of maintenance, but proper treatment and testing procedures are in place to provide safe water to the customers. The quality of water is controlled daily and daily operators logs are filled out showing the levels of chlorine, pH, alkalinity, hardness, iron level, and turbidity of raw and finished products. The fluoride level is also checked daily. In addition to these reports, the plant fills out monthly operators report (MOR)

that are submitted to the Health Department in Charleston. Two Class II Water Plant Operators and one Class IV Water and Wastewater Operator have been employed by the City since August 2017, September 2018, and June 2017; respectively. Staff did not find evidence that would show that the City is not providing safe water to its customers. Improvements to the treatment plant are included in the Work included in Case 18-1499-W-CN, under Contract No. 4

6. Water and/or sewer rate increases are processed through a system that includes ordinances, publications, possibility of customers' protests, and Municipal Appeal Cases that are reviewed at the Commission. The last sewer rate increase has been addressed with Case 17-0888-S-MA. The last water rate increase was reviewed under Case ORDW Richwood 18A. Staff defers further recommendation about this issue to the Legal Division of the Commission.
7. Per the City, Mr. Essig, Mr. Hilton, and Ms. Carden are not customers of records of the City.
8. Staff has been unable to contact any of the Complainants.

To conclude, Staff recommends that items 1 and 2 above be implemented by the City and that this Complaint be dismissed unless objections are filed within ten days by either party.

SDS:

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